

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES AND EXCHANGE
COMMISSION,

Plaintiff,

v.

JOHN BABIKIAN,

Defendant.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: January 19, 2017

NO. 1:14-cv-01740-PAC

**~~PROPOSED~~ ORDER TO ESTABLISH A FAIR FUND AND APPOINT A TAX
ADMINISTRATOR AND DISTRIBUTION AGENT**

The Court having reviewed the Securities and Exchange Commission's ("SEC" or "Commission") Motion to Establish a Fair Fund and Appoint a Tax Administrator and Distribution Agent and for good cause shown,

IT IS HEREBY ORDERED:

1. The Motion is GRANTED.
2. A Fair Fund is created pursuant to Section 308(a) of the Sarbanes-Oxley Act of 2002 [15 U.S.C. §7246(a)], as amended by the Dodd-Frank Act of 2010 [15 U.S.C. §7246].
3. Damasco & Associates, LLP is appointed as Tax Administrator to execute all income tax reporting requirements, including the preparation and filing of tax returns, for the Fair Fund.
4. Damasco & Associates, LLP shall be designated the Tax Administrator of the

Fair Fund, pursuant to section 468B(g) of the Internal Revenue Code (IRC), 26 U.S.C. §468B(g), and related regulations, and shall satisfy the administrative requirements imposed by those regulations, including but not limited to (a) obtaining a taxpayer identification number, (b) filing applicable federal, state, and local tax returns and paying taxes reported thereon out of the Fair Fund, and (c) satisfying any information, reporting, or withholding requirements imposed on distributions from the Fair Fund. Upon request, the Tax Administrator shall provide copies of any filings to the Commission's counsel of record.

5. The Tax Administrator shall be entitled to charge reasonable fees and expenses for tax compliance services in accordance with its agreement with the Commission.

6. The Commission staff is authorized to approve and arrange payment of all future tax obligations and tax administrator fees and expenses owed by the Fair Fund directly from the Fair Fund to Damasco & Associates without further order of the Court.

7. Payments shall be made payable to: Miller Kaplan Arase LLP, 4123 Lankershim Boulevard, North Hollywood, CA 91602-2828.

8. Epiq Systems, Inc. ("Epiq") is appointed to serve as the distribution agent of the Fair Fund in this matter, pursuant to the terms of a distribution plan to be approved by this Court. Epiq shall coordinate with the Court-appointed Tax Administrator, Damasco & Associates LLP, to ensure that the proposed Fair Fund, a Qualified Settlement Fund ("QSF") under Section 468B(g) of the Internal Revenue Code, and related regulations, 26 C.F.R. §§1.468B-1 through 5, complies with all related legal and regulatory requirements, including but not limited to, satisfying any reporting or withholding requirements imposed on distributions from the QSF.

9. Epiq shall invoice all administrative fees and expenses incurred in the administration and distribution of the proposed Fair Fund to the Commission for review and approval by Commission staff. Any unresolved objections to an invoiced amount will be referred to the Court.

10. Once the distribution plan is approved, Epiq will submit quarterly progress reports to the Commission staff and a final accounting report for the Fair Fund, in a format to be provided by the Commission staff, when Epiq's duties are completed. Commission staff shall file the final accounting report for the Fair Fund with the Court once it has been reviewed by Commission staff, and Commission staff has determined it has no objections.

11. Epiq may be removed *sua sponte* at any time by the Court or upon motion of the Commission and replaced with a successor. In the event Epiq decides to resign, it will first give written notice to the Court and to Commission staff of such intention, and the resignation, if permitted, will not be effective until the Court appoints a successor.

IT IS SO ORDERED.

Dated: 1-19-17

A handwritten signature in black ink, appearing to read "Paul A. Crotty", is written over a horizontal line.

Paul A. Crotty
United States District Judge